

When a retailer permanently affixes or incorporates a mobile home into real estate, that retailer is acting as a construction contractor for purposes of the Illinois sales tax laws. See 86 Ill. Adm. Code 130.1940. (This is a GIL).

March 19, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated February 2, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

We are the accountants for COMPANY. We need to know on what amount are we supposed to charge sales tax.

We sale mobile homes, both single units and double wides. We also sell accessories such as central air conditioning units, steps, underpinning, and foundations. We need a clarification of exactly what amount we are to pay taxes on if the units and accessories are sold 1) to a buyer who is just going to block the unit and underpin it, and 2) to a buyer who is going to put the unit on a solid block foundation. We are confused as we have received some conflicting information from the local IDR office over a period of years on paying on our cost versus charging the customer on the retail sale.

We also need to know how to report the sales based upon items 1 & 2 above and what forms to properly use. Keep in mind that these units are titled.

If you need any further information, please do not hesitate to call us at the number in the letterhead.

Generally, there are two distinct types of sales of mobile homes. The first type of sale involves the selling of a mobile home without the seller installing or incorporating it into real estate. The second type of sale involves the sale of a mobile home that includes the seller installing or incorporating it into real estate.

If a retailer sells a mobile home without installation or incorporation into real estate, this sale must be reported on a transaction reporting return (Form ST-556). In this situation, the retailer incurs Retailers' Occupation Tax and the purchaser is liable for Use Tax on the purchase price.

When a retailer permanently affixes or incorporates a mobile home into real estate, that retailer is acting as a construction contractor for purposes of Illinois tax law. See the enclosed copy of 86 Ill. Adm. Code 130.1940. A construction contractor is considered the end-user of the tangible personal property that he or she permanently attaches to real estate. The Department considers a mobile home to be permanently attached or incorporated into real estate when it is placed on a permanent foundation, all parts providing for the mobility of the structure have been removed, and it is hooked up to permanent plumbing and electrical systems. If the retailer makes a sale of a mobile home with permanent installation or incorporation into real estate as part of the sale, the retailer is liable for Use Tax based upon the retailer's cost price of the mobile home and the materials used to permanently affix the mobile home into the real estate. The retailer in this situation is the taxable user of the property and the sale is not reported on a transaction reporting return (Form ST-556). These retailers should pay their tax to their suppliers. If their supplier does not collect the Illinois tax from them, they should report their Use Tax liability on their ST-1.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.